

Practitioner's Docket No. SPR00857P00040US

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

☒ In re application of:

Application No.:

Group No.:

Filed:

Examiner:

For\*: Graeme David RICHARDS et al

Methods for breeding plants

☐ Patent No.:

Issue Date:

\*NOTE: Insert name(s) of inventor(s) and title also for patent. Where statement is with respect to a maintenance fee payment, also insert application number and filing date, and add Box M. Fee to address.

**STATEMENT CLAIMING SMALL ENTITY STATUS (37 CFR 1.9(c-f) and 1.27(b-d))**

With respect to the invention described in

☐ the specification filed herewith.

☐ application no. \_\_\_\_\_ filed \_\_\_\_\_

☒ PCT International Application No. PCT/AU2004/001327 filed 27 September 2004

☐ patent no. \_\_\_\_\_ issued \_\_\_\_\_.

**I. IDENTIFICATION AND RIGHTS AS A SMALL ENTITY**

I hereby state that I am

(complete either (a), (b), (c) or (d) below)

**(a) Independent Inventor**

☐ a below named independent inventor, and that I qualify as an independent inventor, as defined in 37 CFR 1.9(c), for purposes of paying reduced fees under Sections 41(a) and (b) of Title 35, United States Code, to the Patent and Trademark Office.

**(b) Noninventor Supporting a Claim by Another**

☐ making this statement to support a claim by

for a small entity status for purposes of paying reduced fees under Sections 41(a) and (b) of Title 35, United States Code. I hereby state that I would qualify as an independent inventor as defined in 37 CFR 1.9(c) for purposes of paying reduced fees under Sections 41(a) and (b) of Title 35, United States Code, if I had made the above identified invention.

**(c) Small Business Concern**

check  
one /

☐ the owner of the small business concern identified below:

☒ an official of the small business concern empowered to act on behalf of the concern identified below:

(Statement Claiming Small Entity Status (37 CFR 1.9(c-f) and 1.27(b-d))--page 1 of 4) 7-10

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Name of Concern: Phytonova Pty Ltd  
 Address of Concern: Building O, Westmead Precinct, University of Western Sydney,  
Hawkesbury Road, Westmead, New South Wales 2145, Australia

and

that the above identified small business concern qualifies as a small business concern, as defined in 13 CFR 121.3-18, and reproduced in 37 CFR 1.9(d), for purposes of paying reduced fees under Sections 41(a) and (b) of Title 35, United States Code, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

(d) Non-Profit Organization

☐ an official empowered to act on behalf of the nonprofit organization identified below:

Name of Organization

Address of Organization

TYPE OF ORGANIZATION

- ☐ University or Other Institution of Higher Education
- ☐ Tax Exempt Under Internal Revenue Service Code (26 USC 501(a) and 501(c) (3))
- ☐ Nonprofit Scientific or Educational Under Statute of State of the United States of America  
 (Name of State \_\_\_\_\_)  
 (Citation of Statute \_\_\_\_\_)
- ☐ Would Qualify as Tax Exempt Under Internal Revenue Service Code (26 USC 501(a) and 501(c) (3)), if Located in the United States of America
- ☐ Would Qualify as Nonprofit Scientific or Educational Under Statute of State of the United States of America, if Located in the United States of America  
 (Name of State \_\_\_\_\_)  
 (Citation of Statute \_\_\_\_\_)

and that the nonprofit organization identified above qualifies as a nonprofit organization, as defined in 37 CFR 1.9(e), for purposes of paying reduced fees under Sections 41(a) and (b) of Title 35, United States Code.

II. OWNERSHIP OF INVENTION BY DECLARANT

I hereby state that rights under contract or law remain with and/or have been conveyed to the above identified

☐ person  
 (item (a) or (b) above)

☒ concern  
 (item (c) above)

☐ organization  
 (item (d) above)

(Statement Claiming Small Entity Status (37 CFR 1.9(c-f) and 1.27(b-d))--page 2 of 4) 7-10

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<b>DECLARATION AND POWER OF ATTORNEY FOR UTILITY OR DESIGN PATENT APPLICATION</b> (37 CFR 1.63)		Attorney Docket No.:	SPR00857P00040US
		First Named Inventor:	Graeme David Richards et al.
		<i>COMPLETE IF KNOWN</i>	
		Application Number:	
		Filing Date:	
		Group Art Unit:	
<input type="checkbox"/> Declaration Submitted With Initial Filing		<input checked="" type="checkbox"/> Declaration Submitted After Initial Filing (surcharge (37 CFR 1.16(e)) required	Examiner Name:

As a below-named inventor, I hereby declare that:

My residence, mailing address, and citizenship are as stated below next to my name.

I believe I am the original, first, and sole inventor (if only one name is listed) or an original, first and joint inventor (if plural names are listed) of the subject matter which is claimed and for which a patent is sought on the invention entitled: **METHODS FOR BREEDING PLANTS**, the specification of which:

- ☐ is attached hereto; or
- ☒ was filed on September 27, 2004 as United States Application Serial No \_\_\_\_\_ or PCT International Application No. PCT/AU2004/001327, and was amended on (MM/DD/YYYY) \_\_\_\_\_ (if applicable).

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose all information which is material to patentability as defined in 37 CFR. 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d), or (f), or 365(b) of any foreign application(s) for patent, inventor's or plant breeder's rights certificate(s), or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's or plant breeder's rights certificate(s), or any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application Number(s)	Country	Foreign Filing Date (MM/DD/YYYY)	Priority Not Claimed	Certified Copy Attached?	
				YES	NO
2003905277	AU	09/26/2003	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

- ☐ Additional foreign application numbers are listed on a supplemental priority data sheet attached hereto.

I hereby claim the benefit of any United States application(s) listed below.

EXCEPT, that if the rights held are not exclusive, each individual, concern or organization having rights to the invention is listed below\* and no rights to the invention are held (1) by any person who could not be classified as an independent inventor under 37 CFR 1.9(c) if that person had made the invention, (2) any concern which would not qualify as a small business concern under 37 CFR 1.9(d) or (3) a nonprofit organization under 37 CFR 1.9(e).

- ☒ no such person, concern, or organization  
☐ person, concerns or organizations listed below\*

\*NOTE: Separate statements are required from each named person, concern or organization having rights to the invention as to their status as small entities. (37 CFR 1.27)

Full Name

Address

☐ INDIVIDUAL ☐ SMALL BUSINESS CONCERN ☐ NONPROFIT ORGANIZATION

Full Name

Address

☐ INDIVIDUAL ☐ SMALL BUSINESS CONCERN ☐ NONPROFIT ORGANIZATION

### III. ACKNOWLEDGEMENT OF DUTY TO NOTIFY PTO OF STATUS CHANGE

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28(b))

### IV. DECLARATION

(check the following item, if desired)

NOTE: The following verification statement need not be made in accordance with the rules published on October 10, 1997, 62 Fed. Reg. 52131, effective December 1, 1997.

NOTE: AThe presentation to the Office (whether by signing, filing, submitting, or later advocating) of any paper by a party, whether a practitioner or non-practitioner, constitutes a certification under ' 10.18(b) of this chapter. Violations of ' 10.18(b)(2) of this chapter by a party, whether a practitioner or non-practitioner, may result in the imposition of sanctions under ' 10.18(c) of this chapter. Any practitioner violating ' 10.18(b) may also be subject to disciplinary action. See ' ' 10.18(d) and 10.23(c)(15). 37 CFR 1.3(d)(2).

- ☒ I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

(Statement Claiming Small Entity Status (37 CFR 1.9(c)-(f) and 1.27(b)-(d))--page 3 of 4) 7-10

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## V. SIGNATURES

(complete only (e) or (f) below)

(e)

NOTE: All inventors must sign the statement.

Name of Inventor

\_\_\_\_\_  
Signature of Inventor

Date:

Name of Inventor

\_\_\_\_\_  
Signature of Inventor

Date:

Name of Inventor

\_\_\_\_\_  
Signature of Inventor

Date:

(add lines for any additional inventors who must sign)

or

(f)

NOTE: The title of the person signing on behalf of a concern or nonprofit organization should be specified.

Name of Person Signing

Hugh Mountash

Title of Person

C.E.O.

(if signing on behalf of a concern or non-profit organization)

Address of Person Signing

P.O. Box 2055  
Trowers 6066

SIGNATURE



DATE

23. March 06

S&amp;F REF: 648069US

(Statement Claiming Small Entity Status (37 CFR 1.9(c-f) and 1.27(b-d))--page 4 of 4) 7-10

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Application Number(s)	Filing Date	<input type="checkbox"/> Additional application numbers are listed on a supplemental priority data sheet attached hereto.

The undersigned hereby authorizes the registered practitioner(s) identified herein to accept and follow instructions from the assignee, if any, of the undersigned or from \_\_\_\_\_ as to any action to be taken in the Patent and Trademark Office regarding this application without direct communication between the registered practitioner(s) and the undersigned. In the event of a change in the persons from whom instructions may be taken, the registered practitioner(s) named herein will be so notified by the undersigned.

As a named inventor, I hereby appoint the registered practitioner(s) identified by Customer No. 32116 to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith, whose firm name, mailing address, telephone number, and facsimile number for this application are:

WOOD, PHILLIPS, KATZ, CLARK & MORTIMER  
 Citigroup Center, Suite 3800  
 500 West Madison Street  
 Chicago, Illinois 60661-2511  
 (312) 876-1800 (phone)  
 (312) 876-2020 (facsimile)

**Customer Number (32116)**

I hereby declare that all statements made herein of my knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

<b>Name of Sole or First Inventor:</b>	Graeme David Richards	
<b>Citizenship:</b>	Australian	
<b>Residence:</b>	56 Richards Lane, Newee Creek, New South Wales 2447, Australia	
<b>Mailing Address (if different):</b>		
<b>Signature:</b>		<b>Date:</b>
<input type="checkbox"/> A petition has been filed for this unsigned inventor.		

<b>Name of Additional Inventor, if any:</b>	George Orel	
<b>Citizenship:</b>	Australian	
<b>Residence:</b>	87 Ridgeway Crescent, Valley Heights, New South Wales, 2777, Australia	
<b>Mailing Address (if different):</b>		
<b>Signature:</b>		<b>Date:</b>
<input type="checkbox"/> A petition has been filed for this unsigned inventor.		

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International Bureau of WIPO  
34, Chemin des Colombettes  
1211 Geneva 20  
Switzerland

648069C:MOB:DKM  
23 March 2006

## URGENT

BY FAX TO: +41 22 338 87 40

(CC: +41 22 740 14 35)

1 page, including this page

This facsimile is only for the use of the individual or entity to whom it is addressed and contains information which may be confidential and the subject of legal privilege. If you receive this communication in error, please destroy it and notify us immediately by fax or telephone. Thank you.

Dear Sir/Madam

Re: International (PCT) Patent Application No. PCT/AU2004/001327  
**Phytonova Pty. Limited**  
Title: Methods For Breeding Plants

The Applicant hereby requests, under Rule 92*bis*, amendment of the inventor details in respect of this application for all designated states.

Inventor Graeme David Richards, formerly of 60/2 Lennox Street, Richmond, New South Wales 2753, Australia has changed address to:

56 Richards Lane  
Newee Creek  
New South Wales 2447  
Australia

We look forward to advice of amendment of the address of Graeme David Richards in respect of this application in the near future, and thank you for your cooperation.

Yours faithfully  
**SPRUSON & FERGUSON**

David Myers